

AMENDED IN ASSEMBLY MARCH 13, 2006

AMENDED IN ASSEMBLY JUNE 22, 2005

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE APRIL 18, 2005

**SENATE BILL**

**No. 354**

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**Introduced by Senator Escutia**

February 16, 2005

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An act to add Section 57015 to the Health and Safety Code, relating to hazardous substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 354, as amended, Escutia. Hazardous substances: brownfields task force.

Under existing law, the Site Designation Committee in the California Environmental Protection Agency is authorized to designate an administering agency for oversight of a remedial action to a hazardous substance release. Existing law requires the administering agency to supervise the site investigation and remedial action conducted by the responsible party and, upon determining that the site investigation and remedial action has been satisfactorily completed, to issue a certificate of completion to the responsible party.

This bill would require the agency to establish a Task Force on Brownfields Redevelopment, which would be composed of specified persons with substantial *demonstrated* experience *and expertise* with the redevelopment of brownfields properties from the public, private, and nonprofit sectors, appointed by the Governor, the President pro Tempore of the Senate, and the Speaker of the Assembly.

The bill would require the task force to provide information to the agency on the effectiveness of existing laws, regulations, and administrative remedies relating to the state's site cleanup oversight programs, brownfield cleanup and redevelopment funding programs, and liability relief mechanisms available to brownfield redevelopers, and to identify and evaluate legislative, regulatory, or administrative proposals that would improve opportunities for brownfield redevelopment.

The bill would require the agency to convene a meeting of the task force on or before May 5, 2006 2007, and would require the task force to submit recommendations to the Legislature and the agency on or before May 4, 2007 2008. ~~The bill would prohibit the agency from consolidating the site cleanup programs of the Department of Toxic Substances Control and the California regional water quality control boards until at least 90 days after the agency receives the task force's recommendations.~~

The bill would require these provisions to be implemented through existing state resources, would require the agency to provide staff support to the task force, up to a specified amount, and would allow the agency to apply for, accept, and spend any grants and gifts from any source, public or private, to implement the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 57015 is added to the Health and Safety
- 2 Code, to read:
- 3 57015. (a) The Legislature finds and declares all of the
- 4 following:
- 5 (1) Real property contaminated with hazardous substances is a
- 6 continuing blight on communities and the cleanup and
- 7 development of these sites will lead to productive end uses,
- 8 including job creation, new housing, and an increased
- 9 community tax base.
- 10 (2) The patchwork regulatory framework for site cleanup in
- 11 California has created over 100 local, regional, and state agencies
- 12 that may serve as the regulatory agency responsible for
- 13 overseeing environmental cleanup. California's framework of
- 14 multiple agencies with overlapping jurisdictions has led to

1 confusing and costly delays in the redevelopment of blighted or  
2 contaminated real properties.

3 (3) The Governor's California Performance Review  
4 recognized that "this fragmentation of responsibility and  
5 overlapping and duplicative authority is not without costs—to the  
6 public and to the state," and recommended that "the Governor  
7 should work with the Legislature to consolidate cleanup  
8 functions."

9 (4) The State Auditor's Report on the California  
10 Environmental Protection Agency that was issued in July of 2003  
11 concluded that liability concerns and funding constraints can  
12 impede the cleanup and redevelopment of brownfields, and that  
13 thousands of properties lay fallow awaiting investigation,  
14 cleanup, and redevelopment.

15 (5) Based on the State Auditor's Report and on the  
16 recommendations of the Governor's California Performance  
17 Review, the state will convene a task force to advise the  
18 Legislature and administration on improving opportunities for  
19 brownfield redevelopment in the state, by addressing the issues  
20 of funding, liability relief, and streamlining and coordination of  
21 regulatory oversight.

22 (b) For purposes of this section, the following definitions shall  
23 apply:

24 (1) "Agency" means the California Environmental Protection  
25 Agency.

26 (2) "President" means the President pro Tempore of the  
27 Senate.

28 (3) "Speaker" means the Speaker of the Assembly.

29 (4) "Task force" means the Task Force on Brownfields  
30 Redevelopment established pursuant to subdivision (c).

31 (c) The agency shall establish the Task Force on Brownfields  
32 Redevelopment, which shall be composed of stakeholders from  
33 the public, private, and nonprofit sectors that have substantial  
34 demonstrated experience ~~in completing or supporting the~~  
35 ~~successful redevelopment of two or more brownfield properties~~  
36 ~~on or after January 1, 2003 and expertise in the issues associated~~  
37 ~~with brownfield redevelopment.~~ The task force shall be composed  
38 of a representative of one of, or a person who is one of, each of  
39 the following:

40 (1) A redevelopment agency *or a municipality*.

1     ~~(2) A municipality.~~  
2     ~~(3) —~~  
3     (2) A private sector developer.  
4     ~~(4) —~~  
5     (3) A nonprofit developer.  
6     ~~(5) —~~  
7     (4) An environmental engineer or scientist.  
8     ~~(6) An environmental attorney.~~  
9     (5) *A land use or real estate attorney.*  
10    ~~(7) A land use or real estate~~  
11    (6) *An environmental attorney.*  
12    (7) *A nonprofit organization specializing in environmental*  
13    *justice issues.*  
14    (8) A nonprofit organization specializing in brownfield  
15    funding and technical assistance.  
16    (9) A nonprofit organization specializing in environmental  
17    protection or environmental justice issues, or both of those areas.  
18    (d) *Members fulfilling the qualifications of paragraphs (1) to*  
19    *(5), inclusive, of subdivision (c) shall, in addition, to the*  
20    *qualifications stated in subdivision (c), have demonstrated*  
21    *substantial experience in completing or supporting the successful*  
22    *redevelopment of two or more brownfield properties within the*  
23    *three years prior to January 1, 2007.*  
24    ~~(d) —~~  
25    (e) (1) The Governor, the President pro Tempore of the  
26    Senate, and the Speaker of the Assembly shall each appoint three  
27    members of the task force.  
28    (2) The Governor shall appoint one member fulfilling the  
29    qualifications of paragraph (1) of subdivision (c), one member  
30    fulfilling the qualifications of paragraph (2) of subdivision (c),  
31    and one member fulfilling the qualifications of paragraph (3) of  
32    subdivision (c).  
33    (3) The speaker shall appoint one member fulfilling the  
34    qualifications of paragraph (4) of subdivision (c), one member  
35    fulfilling the qualifications of paragraph (5) of subdivision (c),  
36    and one member fulfilling the qualifications of paragraph (6) of  
37    subdivision (c).  
38    (4) The president shall appoint one member fulfilling the  
39    qualifications of paragraph (7) of subdivision (c), one member  
40    fulfilling the qualifications of paragraph (8) of subdivision (c),

1 and one member fulfilling the qualifications of paragraph (9) of  
2 subdivision (c).

3 (5) All members shall be appointed to the task force on or  
4 before March 31, ~~2006~~ 2007.

5 ~~(e)–~~

6 (f) The task force shall do all of the following:

7 (1) Provide information on the effectiveness of existing laws,  
8 regulations, and administrative remedies relating to the  
9 following:

10 (A) The state's site cleanup oversight programs. *Analysis*  
11 *conducted pursuant to this subparagraph shall take into*  
12 *consideration information analyzed pursuant to subdivision (g).*

13 (B) The state's brownfield cleanup and redevelopment funding  
14 programs.

15 (C) The state's liability relief mechanisms available to  
16 brownfield redevelopers.

17 (2) Identify and evaluate legislative, regulatory, or  
18 administrative proposals that would improve opportunities for  
19 brownfield redevelopment in the state by aiming to do any of the  
20 following:

21 (A) Improve the streamlining and coordination of site cleanup  
22 oversight responsibilities within the agency. A recommendation  
23 made pursuant to this paragraph shall take into consideration  
24 information analyzed pursuant to subdivision ~~(f)~~ (g).

25 (B) Provide a reliable source of funding for the cleanup and  
26 redevelopment of brownfields.

27 (C) Provide liability relief to new purchasers of contaminated  
28 property who are not responsible parties.

29 ~~(f)–In~~

30 (g) *In evaluating the effectiveness of the state's site cleanup*  
31 *oversight programs pursuant to subparagraph (A) of paragraph*  
32 *(1) of subdivision (f) and in making recommendations on the*  
33 *coordination of site cleanup oversight responsibilities within the*  
34 *agency pursuant to subparagraph (A) of paragraph (2) of*  
35 *subdivision (e), the task force shall consider all of the following*  
36 *for each site cleanup oversight program within the agency:*

37 (1) Consistency of cleanup standards and oversight process.

38 (2) Capacity and expertise of staff.

39 ~~(3) Appropriateness of level of effort–Protection of human~~  
40 *health and the environment.*

1 (4) Employment of institutional and engineering controls.

2 (5) Public notification and participation process.

3 (6) Frequency and nature of the conditions under which a  
4 completed removal and remedial action at a site may be subject  
5 to further administrative action.

6 (7) Length of time required to reach “cleanup complete”  
7 determinations.

8 (8) Total agency oversight costs.

9 (9) Appeals process.

10 (10) Compliance monitoring and enforcement.

11 ~~(g)~~

12 *(h)* (1) The agency shall convene the first meeting of the task  
13 force on or before May 5, ~~2006~~ 2007.

14 (2) The task force shall meet as often as it deems necessary,  
15 with consideration of available resources, but at a minimum, at  
16 least once each month.

17 ~~(3) The Notwithstanding Section 7550.5 of the Government~~  
18 ~~Code, the~~ task force shall submit its findings and  
19 recommendations to the Legislature and the agency in the form  
20 of a written report on or before May 4, ~~2007~~ 2008.

21 (4) A majority of the task force shall constitute a quorum for  
22 the transaction of business.

23 (5) The task force shall be headed by a chairperson, selected  
24 by the task force from among its members.

25 ~~(6) The agency shall not consolidate the site cleanup programs~~  
26 ~~of the Department of Toxic Substances Control and the~~  
27 ~~California regional water quality control boards until at least 90~~  
28 ~~days after the agency receives the task force’s recommendations~~  
29 ~~pursuant to paragraph (3).~~

30 ~~(h)~~

31 *(i)* (1) The task force may consult with additional persons,  
32 advisory entities, and governmental agencies, as the task force  
33 determines necessary.

34 (2) The requirements of this section shall be implemented only  
35 through existing state resources. A member of the task force shall  
36 not receive any compensation related to the member’s service on  
37 the task force that is in addition to any compensation that the  
38 member receives from any other public or private source.

39 (3) The agency shall provide staff support to the task force, the  
40 expenditure for which shall not exceed more than one hundred

1 forty thousand dollars (\$140,000) in the first year in which the  
2 task force implements this section.

3 (4) The staff support at meetings of the task force shall  
4 include, but not be limited to, all of the following:

5 (A) A representative of the agency.

6 (B) A representative of the Business, Transportation and  
7 Housing Agency.

8 (C) A representative of the Governor's Office of Planning and  
9 Research.

10 ~~(i)~~

11 (j) The task force may apply for, accept, and spend, any grants  
12 and gifts from any source, public or private, to implement this  
13 section.